

**NATIONAL
INDIAN
GAMING
COMMISSION**

FEB - 5 1996

Lionel R. Carroll, Sr.
Chairperson
Bear River Band of the
Rohnerville Rancheria
P.O. Box 731
100 Bear River Drive
Loleta, CA 95551

Dear Chairperson Carroll:

This letter responds to your request to review and approve the tribal gaming ordinance, Ordinance No. 95-04, adopted on October 20, 1995, by the Bear River Band (Tribe). This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA).

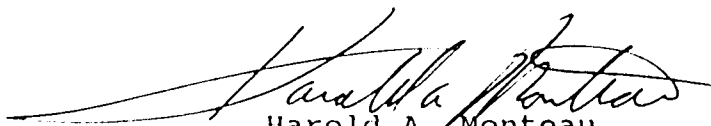
Under the IGRA and the regulations of the National Indian Gaming Commission (NIGC), the Chairman is directed to review ordinances with respect to the requirements of the IGRA and the implementing regulations. Thus, the scope of the Chairman's review and approval is limited to the requirements of the IGRA and the NIGC regulations. Provisions other than those required under the IGRA or the NIGC regulations that may be included in a tribal ordinance are not subject to review and approval. Also, such approval does not constitute approval of specific games. It is important to note that the gaming ordinance is approved for gaming only on Indian lands as defined in the IGRA.

With the Chairman's approval of the Tribe's gaming ordinance, the Tribe is now required to conduct background investigations on its key employees and primary management officials. The NIGC expects to receive a completed application for each key employee and primary management official pursuant to 25 C.F.R. § 556.5(a) and an investigative report on each background investigation before issuing a license to a key employee or primary management official pursuant to 25 C.F.R. § 556.5(b).

The NIGC has been advised by the Bureau of Indian Affairs that the Tribe's only parcel of trust land was acquired after the enactment of the IGRA. Section 2719 of the IGRA generally prohibits gaming on lands acquired in trust after 1988. Please provide the NIGC with some documentation demonstrating that this parcel falls under one of the exceptions to the general prohibition in § 2719 or that the Tribe has other lands which qualify as Indian lands.

Thank you for submitting the ordinance of the Bear River Band of the Rohnerville Rancheria for review and approval. The NIGC staff and I look forward to working with you and the Tribe in implementing the IGRA.

Sincerely yours,



Harold A. Monteau
Chairman

NOV 6 1995

Ordinance No.: 95-04

Date Approved: Oct. 20, 1995

**BEAR RIVER BAND OF THE ROHNERVILLE RANCHERIA
ORDINANCE AUTHORIZING AND REGULATING GAMING ON TRIBAL LANDS**

The Bear River Band of the Rohnerville Rancheria, a federally recognized Indian Tribe (hereinafter "Tribe"), acting through its Tribal Council, in the exercise of its inherent sovereign power to enact ordinances and otherwise safeguard and provide for the health, safety, and welfare of the Tribe and its members, hereby enacts this Ordinance in order to regulate gaming activities on the Tribe's reservation. This Ordinance and any regulations promulgated thereunder shall constitute the entire gaming regulations for the Tribe.

ARTICLE I: PURPOSE

This Ordinance is adopted by the Tribal Council, pursuant to its authority granted under the Tribe's Constitution, for the purpose of establishing the terms for gaming on the Tribe's reservation for tribal governmental and charitable purposes, and to develop, operate, and regulate such gaming consistent with the findings herein and in conformity with the Indian Gaming Regulatory Act, 25 U.S.C. Section 2701 et seq., and regulations promulgated thereunder.

The Tribe finds that -

a. Gaming on the Tribe's reservation is a valuable means of generating revenues that are needed for economic development, to promote tribal self-sufficiency, employment, job training, and a strong tribal government, and to fund and ensure essential social program and services;

b. The Tribe desires to conduct certain forms of gaming to provide needed revenues to the Tribe, and to regulate and control such gaming in a manner that will protect the health, safety, and general welfare of the Tribe, its members, the players, employees, and the community; and

c. The Tribe desires to own all gaming on tribal lands, and to manage and regulate such gaming in a manner that will adequately address the special needs of the Tribe.

ARTICLE II: OWNERSHIP OF GAMING

The Tribe shall have the sole proprietary interest in and responsibility for the conduct of any gaming activity or enterprise authorized by this Ordinance, except to the extent the Tribe may contract with and license a person or entity to operate or manage the enterprise pursuant to the provisions of Indian Gaming Regulatory Act and the regulations promulgated thereunder, or as otherwise permitted by law.

ARTICLE III: DEFINITIONS

Unless specified otherwise, the terms used in this Ordinance shall have the same meaning as in the Indian Gaming Regulatory Act, including but not limited to references to "net revenues," "class I," "class II," and "class III" gaming.

a. "Closely associated independent contractor" shall mean any contractor that shares common ownership, officers or directors with any management principal or person related thereto.

b. "Gaming" shall mean any activity in which a person stakes or risks something of value on the outcome of a contest of chance or a future contingent event, not under his or her control or influence, upon an agreement or understanding that the person, or someone else, will receive something of value in the event of a certain outcome, but shall not include bona fide business transactions.

c. "Gaming activities" shall mean any "class I, class II, or class III" gaming activity conducted by or under the jurisdiction of the Tribe.

d. "Gaming Commission" shall mean the Bear River Band of the Rohnerville Rancheria Gaming Commission, as established herein to monitor gaming activities, investigate wrongdoing, conduct background investigations, issue licenses, and perform other duties as required for the regulation of gaming on tribal lands.

e. "Gaming contractor" shall mean any person or entity that supplies gaming devices or other gaming equipment, personnel, or services (including gaming management or consulting services) to any gaming activity or enterprise.

f. "Gaming enterprise" shall mean any gaming business, event, enterprise or activity conducted by or under the jurisdiction of the Tribe.

g. "Key employee" shall mean a person who performs one or more of the following functions: bingo caller, counting room supervisor, chief of security, custodian of gaming supplies or cash, floor manager, pit boss, dealer, croupier, approver of credit, or custodian of gaming devices including those persons with access to cash and accounting records within such devices. If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year, and the four (4) most highly compensated persons in the gaming enterprise are included in the definition of "key employees." At the discretion of the Gaming Commission, other positions or persons may be included under and subject to the requirements for key employees.

h. "National Indian Gaming Commission" shall mean the commission established under the Indian Gaming Regulatory Act.

i. "Net revenues" shall mean gross gaming revenues from all gaming activities of a gaming enterprise, less amounts paid out as, or paid for, prizes and less total gaming-related operating expenses, excluding management fees.

j. "Person" shall mean any natural person or entity, including but not limited to corporations, partnerships and trusts.

k. "Primary management official" shall mean the person who has management responsibility for a management contract; any person who has authority to hire and fire employees or to set up working policy for the gaming enterprise; or the chief financial officer or other person who has financial management responsibility. At the discretion of the Gaming Commission, other positions or persons may be included under and subject to the requirements for primary management officials.

l. "Related to" shall refer to persons who are related as a father, mother, sister, or brother.

m. "Reservation" shall mean all lands under the jurisdiction and control of the Tribe.

n. "State" shall mean the State of California.

o. "Tribal Council" shall mean the governing body of the Tribe, as set forth in the Tribe's Constitution.

p. "Tribal court" shall mean any court established by the Tribe to hear disputes or, if there is none that can exercise jurisdiction, the Tribal Council.

q. "Tribal member" shall mean any duly enrolled member of the Tribe.

ARTICLE IV: GAMING COMMISSION

a. Establishment of Gaming Commission. There is established by the Tribe a Commission, acting under the authority of the Tribe, to be known as the Bear River Band of the Rohnerville Rancheria Gaming Commission. The Gaming Commission shall be composed of five (5) persons who would themselves qualify for licensing under this Ordinance, and shall be appointed by the Bear River Band of the Rohnerville Rancheria Tribal Council.

b. Disqualification for Office. The following persons may not serve as commissioners -

(1) Employees of any gaming enterprise on the reservation.

(2) Persons related to any gaming contractor (including any principal thereof or closely associated independent contractor).

c. Term of Office. There shall be a Chairperson of the Gaming Commission, who shall be appointed for a term of two (2) years. The remaining members of the Commission shall be appointed for terms of two (2) years.

d. Removal from Office. Commissioners may only be removed from office before the expiration of their terms by the Tribal Council for neglect of duty, misconduct, malfeasance, or other acts that would render such persons unqualified for such duties or for licensure hereunder. An affirmative vote of at least a majority of the Tribal Council, taken in an open meeting after a duly noticed hearing at which the member charged with misconduct shall have the right to hear and present evidence concerning his/her removal, shall be required to remove a member of the Gaming Commission. At the request of the commissioner whose removal is at issue, the hearing may be held in executive

session. The Tribal Council may also elect to receive in executive session any evidence public disclosure of which might compromise any on-going law enforcement investigation.

e. Quorum. Three (3) members of the Gaming Commission shall constitute a quorum.

f. Officers. The Gaming Commission shall select, by majority vote, a Chair, Vice-Chair, and Secretary. The Chair shall preside over meetings of the Gaming Commission and the Vice-Chair shall preside in the absence of the Chair. The Secretary shall record in writing the minutes of all Gaming Commission meetings and all official actions taken by the Gaming Commission.

g. Voting. All actions of the Gaming Commission shall be taken by majority vote. The Commission Chair may vote on any issue.

h. Meetings. Meetings shall be held at least once a month, one day prior to the monthly Tribal Council meeting, at the Gaming Commission office. Additional meetings shall be held as called by the Chair or by at least three (3) other Commissioners. Notice of additional meetings shall be given in writing to each Commissioner, served by first class mail or personal delivery at least five (5) days prior to each meeting. Meetings may be called at any time, by any means, with unanimous consent of the Commissioners.

i. Compensation for Commissioners. The Tribal Council shall determine and authorize the compensation to be paid to Commissioners based on a determination of time required to be expended on Commission duties and the qualifications of appointed Commissioners.

j. Powers and Duties. The Gaming Commission shall have the power and duty to -

- (1) Inspect, examine and monitor gaming activities, including the power to demand access to and inspect, examine, photocopy and audit all papers, books and records respecting such gaming activities.
- (2) Investigate any suspicion of wrongdoing in connection with any gaming activities.
- (3) Conduct, or cause to be conducted, such investigations as may be necessary to determine in connection with any gaming activities, compliance with the law or this Ordinance or any contracts, agreements, goods, services, events, incidents, or other matters related to gaming activities.
- (4) Conduct, or cause to be conducted, background investigations regarding any person connected in any way with any gaming activities and issue licenses to, at a minimum, all key employees and primary management officials according to requirements at least as stringent as those set forth in 25 C.F.R Parts 556 and 558.
- (5) Hold such hearings, sit and act at such times and places, summon persons on the reservation to attend and testify at such hearings, take such testimony, and receive such evidence as the gaming commission

- deems relevant in fulfilling its duties.
- (6) Administer oaths or affirmations to witnesses appearing before the Gaming Commission.
 - (7) Implement and administer a system for investigating, licensing and monitoring employees and others connected with gaming activities, as described below, including the issuance of licenses to gaming facilities, individuals and entities as required under this Ordinance and the Indian Gaming Regulatory Act.
 - (8) Hear disputes against the gaming establishment, in accordance with the procedures established in this Ordinance.
 - (9) Subject to the approval of the Tribal Council and the appropriation of funds therefor, to employ such staff and support services as reasonably required to fulfill its responsibilities under this Ordinance, compensation of such employees shall be limited to that which is comparable to compensation paid to persons performing similar duties in other governmental gaming regulatory agencies.
 - (10) To the extent required, comply with any reporting requirements established under a tribal-state compact to which the Tribe is a party and other applicable law, including the Indian Gaming Regulatory Act.
 - (11) Promulgate such regulations as the Commission deems appropriate, subject to review and approval by the Tribal Council, in order to implement and enforce the provisions of this Ordinance including, but not limited to, adopting rules of procedure governing how its meetings will be conducted.
 - (12) Promulgate regulations, subject to review and approval by the Tribal Council, to describe and establish rules for each class II or class III game authorized to be conducted on the reservation, and no form of such gaming may be conducted without the prior approval of the Gaming Commission.
 - (13) Carry out such other duties with respect to gaming activities on the reservation as the Tribal Council shall direct.

k. Annual reports. On or before April 30th of each year, the Gaming Commission shall provide to the Tribal Council and annual report summarizing its activities during the prior twelve (12) month period ending on December 31st, and accounting for all receipts and disbursements. The Tribal Council shall cause copies of the annual report to be made available to tribal members within thirty (30) days after receipt.

l. Other Reporting. As required, the Gaming Commission shall comply with any reporting requirements established under a tribal-state compact to which the Tribe is a party, and other applicable law, including the Indian Gaming Regulatory Act and the regulations promulgated thereunder.

ARTICLE V: AUTHORIZED GAMING

All gaming activities on the reservation, whether class I, II, or III, are prohibited except as authorized under this section.

a. Class I Gaming. Class I gaming activities are hereby permitted to the extent consistent with tribal custom and practice. The Gaming Commission may prohibit and prevent any conduct which is claimed to be class I gaming if the Tribal Council finds that such conduct is not in accordance with tribal custom and practices or in violation of the Indian Gaming Regulatory Act or any other law.

b. Class II and Class III Gaming. Class II and class III gaming as defined in the Indian Gaming Regulatory Act and by the regulations promulgated thereunder is hereby authorized; Provided that the Tribe has the sole proprietary interest in and responsibility for the conduct of any gaming enterprise, or to the extent the Tribe may contract with and license a person or entity to own, operate, or manage the enterprise pursuant to the provisions of the Indian Gaming Regulatory Act or as otherwise permitted by law. Nothing herein shall prohibit the Tribe from engaging the services of non-tribal persons as employees thereof or engaging any persons or entity to provide consulting or other technical assistance or to assist the Tribe in the management of gaming activities pursuant to a management agreement entered into under the provisions of the Indian Gaming Regulatory Act. Class III gaming shall be conducted in accordance with any tribal-state compact between the Tribe and State, or any alternative thereto as provided by the Indian Gaming Regulatory Act.

ARTICLE VI: USE OF GAMING REVENUES

a. Net revenues from gaming activities on the reservation shall be used only for the following purposes -

- (1) To fund tribal government operations and programs;
- (2) To provide for the general welfare of the Tribe and its members;
- (3) To promote tribal economic development;
- (4) To donate to charitable organizations; or
- (5) To help fund operations of local governmental agencies.

b. Except as provided for under the terms of an agreement pursuant to the provisions of the Indian Gaming Regulatory Act or otherwise permitted by law, all revenues generated from any class II or class III gaming activity are the property of the Tribe. Any profits or net revenues from gaming activities shall be deposited into the Tribe's general treasury or such other tribal account as the Tribe shall determine. Once it becomes part of the treasury such funds shall lose any identity as gaming revenues except to the extent necessary to identify them as such in order to comply with applicable law. No tribal member shall be deemed to have any interest in such profits or net revenues.

c. The Tribe may elect to make per capita payments to tribal members, provided that it shall authorize such payments only in conformity with a plan submitted and approved by the Secretary of the Interior pursuant to 25 U.S.C. section 2710(b)(3). Payments from the general treasury funds to tribal members under other tribal programs, including programs related to health, welfare, education, elderly care, and housing, shall not be deemed to be per capita payments.

ARTICLE VII: OPERATION OF GAMING

a. Gaming Permitted as Licensed. Except to the extent authorized by an agreement pursuant to the provisions of the Indian Gaming Regulatory Act or otherwise permitted by law, gaming activities shall only be conducted in tribally owned, operated, and licensed facilities in accordance with this Ordinance. Gaming activities shall be conducted in accordance with the terms and conditions of any license issued by the Tribe for such purposes as to each facility before any gaming activities may occur therein. Such licenses shall specify the hours of operation, type and scope of gaming activities allowed therein, permitted uses of the facility for other activities, rules of conduct for employees and patrons, regulation of alcoholic beverages, food handling and entertainment, and such other matters as the Gaming Commission or the Tribal Council may deem necessary to the conduct of gaming activities therein.

b. Protection of the Environment and Public Health and Safety. Gaming facilities on the reservation shall be constructed, maintained, and operated in a manner that adequately protects the environment and the public health and safety.

c. Dispute Resolution. Patrons with complaints against a gaming establishment shall have as their sole remedy the right to file a claim for relief with the Gaming Commission. For such purposes, disputes with any management contractor or its employees shall be made to the Gaming Commission, and such shall be the exclusive remedy for patron complaints. Patron complaints shall be submitted in writing and, at the discretion of the Gaming Commission, the complainant may be allowed to present evidence. Any patron having a complaint against a gaming establishment or a management contractor or its employees must file such complaint with the Gaming Commission within thirty (30) days of its occurrence. The Gaming Commission will render a decision in a timely fashion and all such decisions are final when issued. All claims shall be limited to a maximum recovery of \$10,000 per occurrence and a cumulative limit of \$20,000 per claimant in any twelve (12) month period.

ARTICLE VIII: AUDITS

a. The Tribe shall cause to be conducted at least annually an independent audit of all gaming operations and shall submit the resulting audit reports to the Tribal Council and, to the extent required by law, to the National Indian Gaming Commission or any other agency.

b. All gaming-related contracts for supplies, services, or concessions in excess of \$25,000 annually (except for contracts for professional, legal and accounting services, relating to class II or III gaming shall be included within the scope of the audit described in subsection a herein.

ARTICLE IX: CONTRACTS

Contracts relating to gaming or any gaming activities or gaming facility over \$25,000 or for more than a five (5) year term(except contracts for professional, legal, or accounting services) shall be subject to a formal, sealed bidding process prior to submission to the Tribal Council for approval. Reasonable efforts will be made to solicit and consider at least three (3) responsible bids; Provided, the Gaming Commission may waive the three bid requirement upon good cause, which may include to provide local employment. All such contracts shall specify that they are subject to the annual independent audit requirement.

ARTICLE X: LICENSES

a. Licensing Requirement. In order to protect the morals, good order, and welfare of the tribal members and other persons on the reservation and to preserve the honesty, fairness, and integrity of gaming activities, all gaming activities must be licensed. Therefore, no person shall engage in or conduct any class II or class III gaming activities on the reservation without an appropriate and valid independent class II or class III license issued by the Gaming Commission. Any gaming license which is issued, or finding of suitability or approval by the Gaming Commission shall be deemed a privilege subject to suspension or revocation. No license shall be issued that would place the Tribe in violation of the Indian Gaming Regulatory Act, provisions of a tribal-state compact, or of any other applicable law.

b. Claim of Privilege. An applicant may claim any privilege afforded by law in connection with a gaming license application or investigation, but a claim of privilege with respect to any testimony or evidence pertaining thereto may constitute sufficient grounds for denial, suspension or revocation.

c. Release of Information. All applicants for a license shall agree to release the information necessary for the Gaming Commission to carry out its duties and achieve its goals under this Ordinance, and to furnish such information to the Bureau of Indian Affairs, the National Indian Gaming Commission, or such other governmental agency as may be required by law.

d. Types of Licenses. Three classes of licenses (Class A, Class B, and Class C) shall be issued to persons and entities associated with gaming activities -

(1) Class A License. Before permitting any person to become permanently associated with a gaming activity as an investor, management entity, or other person owning or controlling ten percent (10%) or more of any interest in any management entity, or any primary management official, key

employee, closely associated independent contractor, or other individual or entity with influence over the management or operation of the gaming, or a class III or III gaming employee, supplier, manufacturer or distributor, such person shall obtain a Class A license. The Gaming Commission shall conduct or cause to be conducted a background investigation to determine if such person has:

(a) Any criminal record or reputation, prior activities, habits, or associations which might pose a threat to the public interest or to the effective regulation of gaming.

(b) Anything else in the person's background that might create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming.

(2) Class B License. Persons who are not among those identified in subsection (1) above, but who are to be employed at a gaming facility on the reservation in some other capacity, such as in non-gaming activities, shall be required to obtain a Class B license from the Gaming Commission. Such persons must establish that they have not been convicted of a crime, or engaged in any activity, which the Gaming Commission in its sole discretion deems would render such person a danger to the safety or integrity of the gaming activities or the safety or property of the Tribe, any tribal member, any gaming employee or patron, or the general public.

(3) Class C License. Minors (persons under the age of 18 years) employed at a gaming facility on the reservation may be issued a Class C license, which will entitle them to work in any position for which a Class B license is required for adults and not otherwise prohibited by law, provided such minors are not deemed by the Gaming Commission to pose any threat to the safety or integrity of the gaming activities or the safety or property of the Tribe, any tribal member, any gaming employee or patron, or the general public. The Class C license shall be valid for no more than six (6) months before renewal, and shall be revoked upon the minor reaching the age of 18, at which time a Class A or Class B license, as may be appropriate, will be required. Minors shall not be employed as dealers or otherwise operate or supervise the operations of games, or to serve alcoholic beverages.

e. License Renewal. Class A and Class B licenses shall be subject to renewal at least every two (2) years, and are subject to revocation or suspension upon the occurrence of any act which, if known during the application process, would have tended to disqualify such person for such a license.

f. Temporary Licenses. Pending completion of an investigation for a license, the Gaming Commission may issue as it deems appropriate and in its sole discretion a temporary license of no more than ninety (90) days duration. Such license shall permit the licensee to engage in such activities and pursuant to such terms and conditions as may be specified by the Gaming Commission. Such temporary license shall expire ninety (90) days from the date of issuance, upon issuance of a regular license, or until an earlier specified expiration date, whichever occurs first.

g. License Investigation. The Gaming Commission may employ all reasonable means, including the engagement of outside services and investigators and the holding of hearings, to acquire the information needed to determine if a license should be issued. Applicants shall also agree to release the information necessary for the Gaming Commission to achieve its duties and goals under this section, and to furnish such information to the National Indian Gaming Commission or such other agency as may be required by law.

h. License Fees. All license applicants shall be required to pay all applicable fees and costs when due, including a reasonable deposit of costs incurred in obtaining information in connection with the application, unless such fees or costs are specifically waived by the Gaming Commission. Estimates of licensing costs shall be provided to applicants upon request. Payment for all reasonable fees and costs must be received by the Gaming Commission prior to issuance of the license.

i. Appeals. All decisions of the Gaming Commission regarding the issuance or revocation of licenses shall be effective when issued. An applicant or licensee whose license is denied, revoked, or suspended may, within thirty (30) days after the date of receipt of a written decision of the Gaming Commission, file a petition with the Gaming Commission requesting a hearing to reconsider the decision, and shall have the right to appeal such decision to the Tribal Court in accordance with such rules and procedures as may be promulgated for that purpose. Any tribal member denied a license by the Gaming Commission may, within sixty (60) days of written notice of such denial, appeal the denial to the Gaming Commission, which shall have the power to reverse its prior decision and order that such license be issued, and shall have the right to appeal such decision to the Tribal Court; Provided that no such license shall be issued for more than one (1) year, subject to the renewal procedures set forth herein; Provided further that no order of the Gaming Commission or Tribal Court that a license be issued shall be valid if such issuance would place the Tribe in violation of any tribal-state compact to which the Tribe is a party, or of any applicable law.

j. Background Investigations.

(1) The Gaming Commission shall request from each primary management official and each key employee all of the information required by subsections (a) through (n) below. Further, each other applicant for a Class A license, except as otherwise provided by the Gaming Commission, shall also submit the information required by subsections (a) through (n) below. The Gaming Commission reserves the right, at any time, to request additional information either prior to, during, or subsequent to any background investigation.

(a) Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);

(b) Currently and for the previous ten (10) years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers license number(s);

(c) Names and current addresses of at least three (3) personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under subsection (b) above;

(d) Current business and residence telephone numbers;

(e) Description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;

(f) Description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;

(g) Name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;

(h) For each felony for which there is an on-going prosecution or a conviction: the charge, the name and address of the court involved, and the date and disposition, if any, of the case;

(i) For each misdemeanor conviction or on-going misdemeanor prosecution (excluding minor traffic violations), within 10 years of the date of the application: the name and address of the court involved, and the date and disposition;

(j) For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within 10 years of the date of the application and is not otherwise listed pursuant to subsections (h) or (i) above: the criminal charge, the name and address of the court involved and the date and disposition;

(k) Name and address of any licensing or regulatory agency (federal, tribal, state, local or foreign) with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;

(l) A current photograph;

(m) Any other information the Tribe or Gaming Commission deems relevant; and

(n) Fingerprints consistent with the procedures adopted by the Tribe or Gaming Commission according to 25 C.F.R. section 522.2(h).

(2) The Tribe shall cause to be conducted an investigation by the Gaming Commission sufficient to make a determination of eligibility as required under this Ordinance. In conducting the investigation, the Tribe or the Gaming Commission or its agents shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

(3) The Gaming Commission shall arrange for a city or county law enforcement agency located in Humboldt County, State of California, to take the applicant's fingerprints and forward those fingerprints directly to the National Indian Gaming Commission, to be forwarded to the Federal Bureau of Investigation, National Criminal Information Center, for review of the applicant's criminal history, and perform or arrange to have performed the necessary background investigation of the applicant required by this Ordinance. Such investigation shall

include contacting each reference provided in the application and taking all appropriate steps necessary to verify the accuracy of the information contained in the application. There shall be a written investigation report of the findings and conclusions of each investigation. The investigative report shall include: (1) the steps taken in conducting the background investigation; (2) the results obtained; (3) the conclusions reached; and (4) the basis for the conclusions. The Gaming Commission shall review the findings and conclusions of the report for the purpose of determining whether to grant or deny the license.

k. Eligibility Determination. The Gaming Commission shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a key employee or primary management official for employment in a gaming operation. If the Gaming Commission determines that employment of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, a gaming operation shall not employ that person in a key employee or primary management official position or in any other position.

l. Forwarding Applications and Reports to the National Indian Gaming Commission.

(1) On or before the date a key employee or primary management official is employed by a gaming operation authorized under this Ordinance, the Gaming Commission, acting on behalf of the Tribe, forward to the National Indian Gaming Commission a completed application for employment containing the information required by this Article.

(2) Prior to issuing a license to a key employee or primary management official, the Gaming Commission, acting on behalf of the Tribe, shall forward to the National Indian Gaming Commission, a copy of the eligibility determination and the investigative report for each background investigation. The investigative report on each background investigation shall be forwarded to the National Indian Gaming Commission within sixty (60) days after an employee is employed or within 60 days of the approval of this Ordinance by the National Indian Gaming Commission.

(3) The gaming operation shall not employ or continue to employ as a key employee or primary management official a person who does not have a license within ninety (90) days.

(4) The investigative report to be forwarded to the National Indian Gaming Commission shall include all of the following:

- (a) Steps taken in conducting a background investigation;
- (b) Results obtained;
- (c) Conclusions reached; and
- (d) The bases for those conclusions.

(5) The Gaming Commission, acting on behalf of the Tribe, shall provide to the National Indian Gaming Commission or other agency, any other reports or information required by the Indian Gaming Regulatory Act or regulations promulgated thereunder.

(6) If a license is not issued to an applicant, the Gaming Commission shall notify the National Indian Gaming Commission and may forward copies of its eligibility determination and investigative report (if any) for inclusion in the Indian Gaming Individuals Records System.

(7) With respect to key employees and primary management officials, the Gaming Commission shall retain applications for employment and reports (if any) of background investigations for inspection by the National Indian Gaming Commission for no less than three (3) years from the date of termination of employment.

m. Granting a Gaming License.

(1) If, within a thirty (30) day period after the National Indian Gaming Commission receives a report, the National Indian Gaming Commission notifies the Tribe that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or primary management official for whom the Gaming Commission has provided an application and investigative report to the National Indian Gaming Commission, the Gaming Commission may issue a license to such applicant.

(2) The Gaming Commission shall provide any additional information requested by the National Indian Gaming Commission concerning a key employee or primary management official who is the subject of a report. A request for additional information by the National Indian Gaming Commission shall suspend the thirty (30) day period established under this subsection until the National Indian Gaming Commission receives the additional information.

(3) If, within the thirty (30) day period established under this subsection, the National Indian Gaming Commission provides a statement itemizing objections to the issuance of a license to a key employee or primary management official, the Gaming Commission shall reconsider the application, taking into account such objections. The Gaming Commission shall make the final decision whether to issue a license to such applicant.

n. License Suspension.

(1) If, after the issuance of a gaming license, the Tribe receives reliable information from the National Indian Gaming Commission or other reliable source indicating that a key employee or primary management official is not eligible for employment under the eligibility criteria established in this Ordinance, the Gaming Commission shall suspend such license and shall notify the licensee in writing of the license suspension and the proposed revocation.

(2) The Gaming Commission shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.

(3) After a revocation hearing, the Gaming Commission shall decide to revoke or to reinstate the gaming license. For actions taken in response to information provided by the National Indian Gaming Commission, the Gaming Commission shall notify the National Indian Gaming Commission of its decision.

o. Licensed Locations. A separate license shall be required for each place, facility, or location where class II and/or class III gaming is conducted on the reservation under this Ordinance. Before class II or class III gaming activities can be conducted, the Gaming Commission shall inspect and license each such facility in accordance with this Ordinance and any requirements of the Indian Gaming Regulatory Act.

ARTICLE XI: APPLICATION FORMS

a. Application Forms. Each application form for a key employee or a primary management official, as well as for other Class A license applicants, shall contain the notices set forth below, unless specifically exempted by the Gaming Commission:

(1) Privacy Notice:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by the National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, Tribal, State, local or foreign law enforcement and regulatory agencies when relevant to civil, criminal, or regulatory investigations or prosecutions, or when pursuant to a requirement by a Tribe or the National Indian Gaming Commission in connection with the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with a Tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a Tribe's being unable to hire you in a primary management official or key employee position.

The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

(2) Existing key employees and primary management officials shall be notified in writing that they shall either:

- (a) Complete a new application form that contains a Privacy Act notice; or
- (b) Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.

(3) The following notice shall be placed on the application form for a key employee or primary management official before the form is filled out by the applicant:

A false statement on any part of your application may be grounds for not hiring you, or for firing you

after you begin work. Also, you may be punished by fine or imprisonment. (18 U.S.C. §1001).

(4) The Gaming Commission shall notify in writing existing key employees and primary management officials that they shall either:

- (a) Complete a new application form that contains a notice regarding false statements; or
- (b) Sign a statement that contains the notice regarding false statements.

ARTICLE XII: INTERESTS IN MANAGEMENT CONTRACTS

No elected official of the Tribe, or any member of the Gaming Commission or any other committee, commission, or agency of the Tribe, shall have a financial interest in or management responsibility for, any management agreement entered into pursuant to the Indian Gaming Regulatory Act, nor shall such elected official or commission, committee, or agency member, serve on the board of directors or hold (directly or indirectly) ten percent (10%) or more of the issued and outstanding stock of any corporation, or ten percent (10%) or more of the beneficial interest in any partnership, trust, or other entity, having a financial interest in, or management responsibility for, such contract.

ARTICLE XIII: AGENT FOR SERVICE

The Tribe designates as its agent for service of any official determination, order, or notice of violation, the Chairperson of the Tribe.

ARTICLE XIV: TRIBAL GAMING CORPORATION

Nothing in this Ordinance shall prevent the Tribe, through its Tribal Council, from delegating the authority to conduct gaming to one or more tribal corporations, so long as the tribal gaming enterprises to which such authority is delegated are subject to all criteria and requirements established under this Ordinance.

ARTICLE XVI: REPEAL

This Ordinance and any regulations promulgated thereunder shall constitute the entire gaming regulations for the Tribe. All other prior gaming ordinances are hereby repealed.

ARTICLE XVII: EFFECTIVE DATE

This Ordinance shall take effective immediately upon its approval by the National Indian Gaming Commission.

ARTICLE XVIII: SEVERABILITY

If any provision or application of this Ordinance is determined by review to be invalid, such determination shall not be held to render such provision inapplicable to other persons or circumstances, nor shall such determination render invalid any other provision of this Ordinance.

ARTICLE XIX: AMENDMENTS

All provisions of this Ordinance are subject to revision, repeal, or amendment by the Tribal Council at any time. Regulations promulgated by the Gaming Commission under this Ordinance are subject to revision, repeal or amendment by the Gaming Commission.

CERTIFICATION

The foregoing Ordinance was adopted at a duly called and convened special meeting of the Tribal Council held on Oct. 20, 1995, where a quorum was present, by the following vote: 5 Ayes, 0 Noes 0 Abstain.

Lionel R. Carroll
Tribal Chairperson

CARROLL SR.

ATTESTED:

Marianne L. Bourie
Tribal Secretary

Wayne Moon
Charles L. Smith
Carol A. H. ...

Vice Chairperson
Council Person
Council